

**CITY OF EL PASO, TEXAS  
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** City Development Department/Planning Division  
**AGENDA DATE:** Regular Agenda  
Public Hearing: October 14, 2014  
**CONTACT PERSON/PHONE:** Carlos Gallinar, (915) 212-1559, gallinarrc@elpasotexas.gov  
**DISTRICT(S) AFFECTED:** 6

**SUBJECT:**

Discussion and action on a request from PasoTex Realty LLC, George Dipp, Chief Operating Officer, for City Council to grant an exception from the prohibition of the sale of alcoholic beverages within three hundred feet of a school for the property located at 12102 Montwood Drive, Suite H and legally described as portion of Lot 1, Block 1, Loop Wood Subdivision, Unit No. 1, City of El Paso, El Paso County, Texas pursuant to Title 20 Zoning, Section 20.10.060B of the El Paso City Code.

**BACKGROUND / DISCUSSION:**

See attached.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:**

\_\_\_\_\_  
Mathew S. McElroy, City Development Department, Director

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**MOTION**

Motion made and second by City Council to grant an exception from the prohibition of the sale of alcoholic beverages within 300 feet of a church, school, commercial day care or public hospital requested from PasoTex Realty, LLC., George Dipp, Chief Operating Officer, on behalf of Daniel James Shaw, Common Ground Restaurant, for the property located at 12102 Montwood Drive, Suite H and legally described as portion of Lot 1, Block 1, Loop Wood Subdivision, Unit No. 1, City of El Paso, El Paso County, Texas.

City Council grants this exception after notice and public hearing and makes the following determination that the enforcement of the prohibition in this particular instance:

1. Is not in the best interest of the public;
2. Constitutes waste or the inefficient use of land or other resources;
3. Creates an undue hardship on an applicant;
4. Does not serve its intended purpose;
5. Is not effective or necessary; or
6. After consideration of the healthy, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

**PASSED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**


**THE CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser, Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Karla M. Nieman  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Mathew S. McElroy, Director  
City Development Department

PASOTEX REALTY, LLC.

P.O. Box 1681  
El Paso, Texas 79949  
Tel (915) 858-3100  
George@Pasotex.net

320 Texas Avenue  
El Paso, Texas 79901  
Fax (915) 858-5353

9-17-2014

Re: 12102 Montwood

To Whom it may concern,

Please let this letter serve as my authorization for Daniel James Shaw to represent both our company Pasotex Realty and his company in the appeal of his denial for a Beer and Wine License at 12102 Montwood. We have no objection as landlord to his license.

Best Regards,

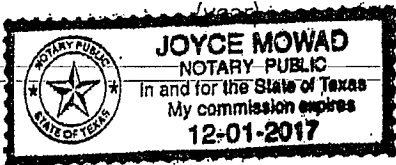


George M Dipp  
Chief Operating Officer

State of Texas  
County of El Paso

Before me, (Insert the name and character of the officer), on this day personally appeared George M Dipp, known to me (or proved to me on the oath of \_\_\_\_\_ or through (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 17<sup>th</sup> day of Sept,



*Joyce Mowad*

## MEMORANDUM

**DATE:** October 6, 2014

**TO:** The Honorable Mayor and City Council  
Tommy Gonzalez, City Manager

**FROM:** Carlos Gallinar, Deputy Director Planning

**SUBJECT:** **Appeal of Prohibition of Sale of Alcoholic Beverages**

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The applicant is requesting an exception from City Council to permit alcohol sales and storage for a Restaurant located at 12102 Montwood Drive, Suite H, legally described as portion of Lot 1, Block 1, Loop Wood Subdivision Unit No. 1, City of El Paso, El Paso County, Texas.

Based on the determination by Building Inspector Sonya Cahalan

- The subject property located at 12102 Montwood Drive is approximately within 230 feet of a High School and
- The location does not qualify for the license under any Legal Non-Conforming “grandfathering” provisions in the El Paso City Code.

The applicant was informed that the Code allows an exception to be granted by City Council from the prohibition of the sale of alcoholic beverages within 300 feet of a school after making certain determinations listed in Title 20, Zoning, Supplemental Use Regulations, Alcoholic beverages, Section 20.10.060 B.7.:

*The city council may grant an exception from prohibition of the sale of alcoholic beverages within three hundred feet of a church, school, commercial day care or public hospital after notice and public hearing if the council determines that the enforcement of the prohibition in a particular instance:*

- a. Is not in the best interest of the public;*
- b. Constitutes waste or the inefficient use of land or other resources;*
- c. Creates an undue hardship on an applicant;*
- d. Does not serve its intended purpose;*
- e. Is not effective or necessary; or*
- f. For any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.*

The subject property is approximately 230 feet from Montwood High School (measurement is property line to property line); there are no other schools and no churches, commercial daycares or public hospitals within 300 feet of the subject property.

### **Attachments**

Exhibit A, pages 1: Appeal letter from appellant



## Recommendation/Public Input

- City Council has sole authority in granting exceptions for the sale of alcohol, per Title 20 Zoning Code, Section 20.10.



## **ALCOHOL SALES RESTRICTION EXCEPTION REQUEST 12102 Montwood Drive Suite H, Common Ground Restaurant**

- Chapter 20.10 Supplemental Use Regulations
- Section 20.10.060 B. (1), (7) - Alcoholic Beverages, Restrictions, Exceptions



## RESTRICTIONS

20.10.060

### B. Restrictions.

1. The sale, storage or handling of alcoholic beverages for the purpose of sale is not permitted in any zoning district where the place of business is located within three hundred feet of a church, public or private school, or public hospital unless expressly granted an exception pursuant to the requirements of this section.



## EXCEPTION PROCESS

20.10.060

### B. Restrictions

7. The city council may grant an exception from prohibition of the sale of alcoholic beverages within three hundred feet of a church, school, commercial day care or public hospital after notice and public hearing if the council determines that the enforcement of the prohibition in a particular instance:

- a. Is not in the best interest of the public;
- b. Constitutes waste or the inefficient use of land or other resources;
- c. Creates an undue hardship on an applicant;
- d. Does not serve its intended purpose;
- e. Is not effective or necessary; or
- f. For any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

